REMARKS/ARGUMENTS

The foregoing amendment and the following arguments are provided to impart precision to the claims, by more particularly pointing out the invention, rather than to avoid prior art.

35 U.S.C. § 112, second paragraph, Rejections

Examiner rejected claims 10-19 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly pint out and distinctly claim the subject matte which applicant regards as the invention. Applicant has amended the claims to overcome the objections.

35 U.S.C. § 103(a) Rejections

Examiner rejected claims 1-2, 4-11, 13-23 and 25-30 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,396,631 (hereinafter "Hayashi") in view of U.S. patent 5,815,720 (hereinafter "Buzbee").

> To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). (Manual of Patent Examining Procedure (MPEP) ¶ 2143.03).

Applicant's independent claims include the claim limitations that are not disclosed nor suggested by either Hayashi or Buzbee. Therefore, as a result, applicant's independent claims are patentable over Hayashi and Buzbee.

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In particular, applicant's independent claims include the limitation, or limitation similar thereto, of <u>specifying an initial value of each routine variable and initializing the variables to the specified initial value.</u>

Neither Hayashi nor Buzbee disclose nor suggest applicant's claimed <u>specifying an initial value of each routine variable and initializing the variables to the specified initial value.</u> The examiner indicates the claimed limitation is disclosed in Buzbee, however, applicant's respectfully disagree.

Buzbee is limited to disclosing a dynamic translation used to produce profile information used to optimize object code for an application. Specifically, the optimized object code for the application, source code for the application is compiled to produce first object code for the application. The first object code may be used to test and validate the application. (See Buzbee col. 1, line 65 – col. 2, line 5).

Buzbee further discloses, that the first object code is used to generate profile information about the application, by dynamically translating the first object code to produce second object code. The second object code when executed produces the profile information. The source code for the application is then recompiled to produce the optimized object code, including using the profile information in the production of the optimized code. (See Buzbee col. 2, line 6 – line 15).

As a result, Buzbee fails to disclose nor suggest applicant's claimed <u>specifying an initial value of each routine variable and initializing the variables</u>

to the specified initial value. Therefore, applicant's independent claims include limitations that are not disclosed in either Hayashi or Buzbee, and applicant's independent claims are therefore patentable over Hayashi and Buzbee.

Furthermore, applicant's remaining claims depend directly or indirectly from at least one of applicant's independent claims as discussed above, and therefore include the distinguishing claim limitations as discussed above. As a result, applicant's remaining claims are also patentable over Hayashi and Buzbee.
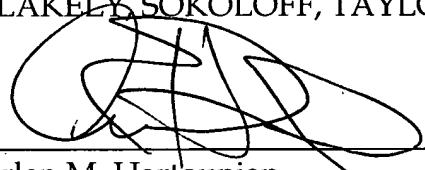
CONCLUSION

Applicant respectfully submits the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call John Ward at (408) 720-8300, x237.

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

Date: 7/03/03

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